



# Circular

MARCH 12, 2007

COUNTRYWIDE INFORMATION

CIF-2007-01

## West Virginia Transition to Competitive Workers Compensation Market

### ACTION NEEDED

This circular is to inform the industry of the transitional changes that the West Virginia Offices of the Insurance Commissioner (OIC) and NCCI have put in place so far in order to transition West Virginia to a competitive workers compensation market.

### BACKGROUND

In October 2005, the West Virginia Offices of the Insurance Commissioner (OIC) appointed NCCI as the workers compensation rating organization for the state. That appointment was a key step in moving West Virginia's workers compensation system from a monopolistic state fund to a competitive market beginning July 1, 2008. As a result of this designation, NCCI has been working in cooperation with the OIC to implement the workers compensation manuals, plans, and rules and in providing ratemaking, proof of coverage, and data reporting services.

### IMPACT

#### Basic Manual Rules and Policy Forms

NCCI's *Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)* was approved for use by the West Virginia OIC, effective July 1, 2006. All West Virginia workers compensation policies with an effective date on or after July 1, 2006 are subject to NCCI's *Basic Manual* rules. Those rules govern the assignment of classification codes, premium basis and payroll allocation, rating definitions, and application of premium elements.

- **NCCI Classification System:** The previous West Virginia class system consisted of 94 group codes. The initial mapping to NCCI's class system produced 477 class codes, which included seven state special classifications. Effective July 1, 2007, the remainder of the NCCI national classifications will be available for use in West Virginia, along with four additional state specials. The West Virginia state special classifications include the following:
  - Board of Education—Students—Unpaid Work-Based Training Program—9449
  - Bottling—2157
  - Carbon Manufacturing—4566
  - Coal Mine—Surface—1006
  - Coal Mine—Underground—1020
  - Coal Mine—Not Otherwise Classified—1016
  - Group Homes—All Employees & Salespersons, Drivers—8842
  - Juvenile Detention Center—All Employees & Salespersons, Drivers—7720
  - Rehabilitation Services—Participants—Unpaid Work-Based Training Program—9448
  - Social Services Organization—All Employees & Salespersons, Drivers—8864
  - Stevedoring NOC—State Act Only 7308

**Policy Forms and Endorsements:** NCCI's Workers Compensation and Employers Liability Policy is the basic insuring agreement between an employer and insurance company. The form has been approved for use in West Virginia as of July 1, 2006. It provides coverage for all statutorily required workers compensation benefits and is currently used in all states where workers compensation insurance is offered.

In addition to the policy form, NCCI's national endorsements have been approved for use in West Virginia. Three endorsements have been filed and approved specific to West Virginia laws relating to:

- Deliberate Intent
- Recovery From Others
- Domestic Employees

### **Experience Rating**

NCCI's *Experience Rating Plan Manual* was filed with the West Virginia OIC and approved for use in West Virginia effective July 1, 2007. All West Virginia workers compensation policies with an effective date on or after July 1, 2007, will be subject to NCCI's *Experience Rating Plan Manual* rules. These rules provide the procedures for experience rating eligibility, the rating elements and formula, and rules for ownership changes and combination of entities and the application and revision of experience rating modifications. NCCI will produce experience rating modification worksheets for all West Virginia risks with a common rating effective date of July 1, 2007. It is expected that ratings for all qualified risks will be distributed by May 1, 2007.

### **Dispute Resolution**

Effective July 1, 2006, the West Virginia OIC approved rules for a Dispute Resolution Process. Pursuant to those rules, NCCI has established an Internal Review Panel for West Virginia that has the authority to hear written requests by policyholders for dispute resolution services relating to NCCI-developed experience modification factors, payroll classification code assignments, and other NCCI manual rules.

### **Professional Employer Organizations**

NCCI filed rules to establish procedures in the voluntary market for the issuance of workers compensation and employers liability insurance for professional employer organization (PEO) arrangements. The filing was approved effective July 1, 2007. The Multiple Coordinated Policy (MCP) approach adopted by West Virginia requires one policy to be issued in the name and federal employer identification number (FEIN) of the PEO, which provides coverage for the PEO's direct workers. In addition, separate policies are issued in the name and FEIN for each of the PEO's clients, which provide coverage for the client's leased workers. Endorsements are attached to all policies to coordinate the coverage between the PEO and its clients.

### **Loss Cost Filings**

Previously in West Virginia, loss costs for 94 group codes were calculated annually. With the implementation of NCCI's classification system on July 1, 2006, advisory loss costs for 477 classifications were determined. Due to the transition to a broader classification system, along with the introduction of standard classification exceptions, NCCI employed an alternative methodology for calculating classification loss costs for the July 1, 2006 filing. Essentially, NCCI used the approved loss costs from seven states located near West Virginia, adjusted for, among other things, estimated differences in benefit levels, to determine state class relativities. Aggregated data was analyzed to test the overall adequacy of the approved loss costs. Consideration for significant historical legislative (SB 250 and SB 2013 from the 1995 and 2003 legislative sessions, respectively) and rule changes was incorporated into our analysis. Ultimately, the West Virginia Insurance Commissioner approved a 13.9% decrease in loss costs effective July 1, 2006. The derived West Virginia classification loss costs were then adjusted to reflect this change. Note that the loss costs exclude all expense provisions except loss adjustment expense.

In February 2007, NCCI developed a West Virginia loss cost filing, effective July 1, 2007, employing a similar methodology as described above. One notable difference is the approach used in determining the appropriate state and federal disease loadings for coal mine classifications. In the July 1, 2007 filing, these values were developed using a frequency and severity approach, comparable to the method used in Kentucky and Virginia.

### **Inspection Services**

NCCI has begun performing classification inspections on businesses in West Virginia. The inspections are performed both on a random basis and upon special request from insureds, carriers, agents, or regulators. There is a charge for inspections performed upon request.

## Employer/Agent Training and Education

In April 2006, NCCI and the West Virginia OIC provided informational seminars in eight cities across West Virginia. During the last two weeks of March 2007, the West Virginia OIC and NCCI will again provide informational seminars for employers and educational training sessions for agents in eight different cities around the state. The seminars/training sessions will cover NCCI rules, manuals, forms, and resources with an emphasis on experience rating. Agents attending the sessions will be eligible for insurance licensing continuing education credits.

## Data Reporting

NCCI's *Unit Report Expansion (URE) Workers Compensation Statistical Plan (URE Stat Plan)* was approved in West Virginia for policies with an effective date of July 1, 2006 and thereafter. It applies to all West Virginia direct workers compensation, voluntary compensation, employers liability business, and federal coal mine compensation written and/or submitted by insurance carriers, TPAs, state funds, and affiliate self-insurers. This manual provides the rules and requirements for reporting unit statistical data.

- **Policy and Proof of Coverage Data:** NCCI began providing proof of coverage services in West Virginia in September 2006. The following provides our current data implementations:
  - For West Virginia policy data with an effective date of July 2006 and thereafter (as reported by the current mutual), NCCI has loaded this data into our policy database for proof of coverage services.
  - For West Virginia policy data with a policy effective date prior to July 2006 (as reported by carriers providing employers liability coverage), this data has been removed from our policy database, and any future submissions of this data will not be loaded/stored in our system.
  - For West Virginia policy data with a policy effective date of July 2006 and thereafter, this data will be accepted and used in NCCI's *Proof of Coverage (POC)* service, distribution of experience ratings, and NCCI's Unit Report Control program.
- **Unit Statistical Data:** As part of NCCI's transition plan to begin the production of experience ratings, the following provides our current data implementations:
  - For West Virginia unit statistical data prior to July 2005 (as reported by the prior monopolistic state fund), NCCI has loaded this data into our unit statistical database for use in the calculation of experience ratings with a rating effective date of July 1, 2007.
  - For West Virginia unit statistical data with a policy effective date prior to July 2006 (as reported by carriers providing excess employers liability coverage), this data has been removed from our unit statistical database—and any future submissions of this data will be rejected.
  - For West Virginia unit statistical data with a policy effective date of July 2006 and thereafter, this data will be accepted and used in the future calculations of experience ratings and loss costs.

The basis of using the July 1, 2006 policy effective date is consistent with and in accordance with NCCI's approved *Basic Manual for Workers Compensation and Employers Liability Insurance* and *URE Stat Plan* that became effective July 1, 2006.

## Excess Employers Liability Coverage, Stop Gap Coverage, and Voluntary Compensation

For employers liability coverage with a policy effective date of July 2006 and thereafter, this data will be accepted and used in NCCI's services, if applicable. This includes Stop Gap and Voluntary Compensation associated with Statistical Code 9139.

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### NCCI ACTION

NCCI will continue to provide any updated information as West Virginia continues to move toward a competitive marketplace, effective July 1, 2008.

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